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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/740,035	12/18/2003	Simon Wilson	884A.0031.U1(US)	2504

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HARRINGTON & SMITH, PC  
4 RESEARCH DRIVE  
SHELTON, CT 06484-6212

EXAMINER
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DAVIS, ROBERT B

ART UNIT	PAPER NUMBER
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1722

MAIL DATE	DELIVERY MODE
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07/13/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/740,035	<b>Applicant(s)</b> WILSON ET AL.	
	<b>Examiner</b> Robert B. Davis	<b>Art Unit</b> 1722	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 April 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 15-28, 41, 42 and 53-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-17, 19-28, 41, 42 and 53-56 is/are rejected.
- 7) ☒ Claim(s) 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Amendment***

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 15-28, 41, 42 and 53-56 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not provide support for the element of a flexible label or for clamping members adapted to clamp a flexible label. The specification merely provides support for label and clamping members for clamping a label.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

4. Claims 15-28, 41, 42 and 53-56 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "flexible label" is indefinite because the term "flexible" is a term of degree without guidance to the relative flexibility in the specification. It is also unclear of the exact structure which is being claimed by the following phrase "the clamping

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members being adapted to clamp a flexible label" due to the use of flexible in the phrase.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 15, 16, 19-21, 24, 25, 27, 28, 53-56 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese reference (56-67235: figures 1-6 and the English abstract).

The Japanese reference (-235) teaches an apparatus for forming a composite article having a label, the apparatus comprising: a multi-portion body (43, 44, 47, 48, 54) defining a void (64, 65), which defines portion (2) of the article in figure 1, a flexible label (66) clamped between portions (54 and 45). The title states that the label is flexible.

7. As illustrated in figure 1, the label (1) is clamped at its periphery on the bottom of the label by mold cores (3, 4

8. Claims 17, 22 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Wood (2,304,984: figures 1-3).

Wood teaches a multi-portion body (12, 13, 16, 17) defining a mold void (26) and at least one conduit (27) for injecting material into the mold void and a plurality of clamping members (14, 15) for clamping a preform (10) within the mold void. The

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clamping members define a shut-off volume (28) that the injected resin does not enter. The final article is shown in figure 3. The top-molding member (12) is resiliently biased towards the preform by a spring (19). The clamping members (14, 15) are continuous. The language regarding the label and the clamping at its perimeter is intended use. The mold of Wood is clearly capable of clamping a flexible label. The perimeter clamping is not a function of a structure of the mold, but rather the relative size of the label. This has no patentable weight, as applicant is not positively reciting the label as a structural element.

9. Claims 17, 41 and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Davis et al (5,897,823: figures 3 and 6).

Davis et al teach a an upper mold (56) and a lower mold (62) defining a mold void (72, 82), an injection passage (68) for injecting plastic material into the mold void or cavity, and a plurality of clamping members (70, 30) for clamping a preform (34) within the mold such that the inner portion of the mold relative to the clamping members are free of injected resin. The clamping members are continuous. The language regarding the label and the clamping at its perimeter is intended use. The mold of Davis et al is clearly capable of clamping a flexible label. The perimeter clamping is not a function of a structure of the mold, but rather the relative size of the label. This has no patentable weight, as applicant is not positively reciting the label as a structural element.

10. Claim 41 is rejected under 35 U.S.C. 102(b) as being anticipated by Byrne (4,162,138: figures 1 and 2).

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Byrne teaches an apparatus for injection molding a composite article comprising: opposing mold members (12 and 16) defining a mold cavity (17), a plurality of clamping members (14, 24) for clamping a preform (19) within the mold cavity, and an injection opening (13) for injecting material into the molding cavity in figure 3) and opposing mold cores (14, 15).. The language regarding the label and the clamping at its perimeter is intended use. The mold of Byrne is clearly capable of clamping a flexible label. The perimeter clamping is not a function of a structure of the mold, but rather the relative size of the label. This has no patentable weight, as applicant is not positively reciting the label as a structural element.

### ***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese reference (56-67235) taken together with Wood.

The Japanese reference discloses all claimed features except for the clamping members being resiliently biased toward the label.

Wood discloses a mold having a clamping member (12) biased toward a preform (10) such that the preform is clamped within a molding cavity.

It would have been obvious at the time of the invention to one of ordinary skill in the art to modify the apparatus of Wood by using resiliently biased clamping members as disclosed by Wood for the purpose of clamping the preform regardless of any variations in thickness of the preform without allowing unwanted flash or damage to the molding members.

### ***Response to Arguments***

13. Applicant's arguments with respect to claims 15, 16, 19-21, 24-28 and 53-56 have been considered but are moot in view of the new ground(s) of rejection.

14. Applicant's arguments filed 4/24/07 have been fully considered but they are not persuasive. Applicant argues that the references to Wood, Byrne and Davis et al do not teach clamping members that adapted to clamp a flexible label. This is not persuasive because the molding members of the respective references are clearly capable of clamping a flexible material.

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***Conclusion***

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

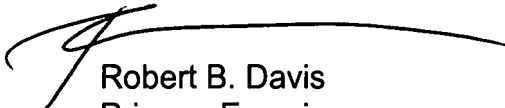
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert B. Davis whose telephone number is 571-272-1129. The examiner can normally be reached on Monday-Friday 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Robert B. Davis  
Primary Examiner  
Art Unit 1722

7/9/07